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December 13, 2012

via electronic filing

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

**Re: Uncaptioned IP-Delivered Video Clips of Emergency
Programming During Hurricane Sandy
Supplement to Petition for Reconsideration
Closed Captioning of Internet Protocol-Delivered Video
Programming: Implementation of the Twenty-First Century
Communications and Video Accessibility Act of 2010
MB Docket No. 11-154**

Dear Ms. Dortch:

Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), the National Association of the Deaf (NAD), the Association of Late Deafened Adults (ALDA), the Hearing Loss Association of America (HLAA), the Deaf and Hard of Hearing Consumer Advocacy Network (DHHCAN), and the Cerebral Palsy and Deaf Organization (CPADO) (collectively "Consumer Groups"), and the Technology Access Program at Gallaudet University (TAP), write to supplement our Petition for Reconsideration of the Commission's Report and Order in the above-referenced docket.¹

In our Petition for Reconsideration, we urged the Commission to reverse its decision to exclude "video clips" from its captioning rules for Internet Protocol ("IP")-delivered video programming.² In particular, we expressed deep concern that the Commission's decision would deny

¹ *Closed Captioning of Internet Protocol-Delivered Video Programming*, Report and Order, MB Docket No. 11-154, 27 FCC Rcd. 787 (Jan. 13, 2012) ("*IP Captioning Order*"); *Petition for Reconsideration of TDI, et al.*, MB Docket No. 11-154 (April 27, 2012) ("*TDI Petition*"), <http://apps.fcc.gov/ecfs/document/view?id=7021914512>.

² *TDI Petition* at 1-17.

people who are deaf or hard of hearing access to important news and other IP-delivered video increasingly delivered in “video clip” form.³

During Hurricane Sandy, which struck the United States in late October, many deaf and hard of hearing consumers were unable to access vital emergency information contained in IP-delivered “video clips.” For example:

- MSNBC delivered via its website an uncaptioned video of New York Governor Andrew Cuomo providing critical information regarding the ability for displaced hurricane victims to vote in the 2012 presidential election, the availability of electricity and gasoline, and information about another approaching storm;⁴
- CBS News delivered via its website an uncaptioned video of Federal Emergency Management Agency (FEMA) administrator Craig Fugate advising viewers of dangerous travel conditions;⁵ and
- Maryland’s News Channel 5 (ABC) delivered via its website an uncaptioned video of Maryland Governor Martin O’Malley issuing emergency warnings in advance of the hurricane.⁶

We also received reports that many online video reports on the hurricane used textual and other widgets that blocked or obscured captions, and cropped sign language interpreters out of the frame.

The inaccessibility of many IP-delivered video clips of emergency information places the safety of consumers with disabilities at unacceptable risk. As the Commission noted more than a decade ago, “it is absolutely necessary and appropriate to require that emergency information be accessible” to people who are deaf or hard of hearing.⁷

FCC Chairman Bill Kennard lamented the story of Sharon McLawhorn, a deaf television viewer who nearly perished in Hurricane Floyd because

³ *Id.* at 13.

⁴ MSNBC, *Gov. Cuomo gives storm preps [sic] briefing* (Nov. 6, 2012), <http://video.msnbc.msn.com/nbc-news/49711925#49711925>.

⁵ CBS, *FEMA admin: “You hoped it wasn’t going to be this bad”* (Oct. 30, 2012), http://www.cbsnews.com/8301-505263_162-57542339/fema-admin-you-hoped-it-wasnt-going-to-be-this-bad/.

⁶ News Channel 5, *Maryland Governor Martin O’Malley: This is a serious killer storm* (Oct. 28, 2012), <http://www.newsnet5.com/dpp/weather/hurricane/Maryland-Governor-Martin-OMalley-This-is-a-serious-killer-storm>.

⁷ *Closed Captioning and Video Description of Video Programming; Accessibility of Emergency Programming*, 15 FCC Rcd. 6615, 6618, ¶ 9 (2000).

broadcast flood warnings were not captioned.⁸ Chairman Kennard noted that the accessibility of emergency information “is not an area where we can make exceptions or tolerate less than perfection, because lives hang in the balance.”⁹

Video programming distributors must not disregard Chairman Kennard’s admonition simply because the underlying technical mechanism for delivering emergency information has changed. The devastating potential of hurricanes and other natural disasters will not subside simply because news of their arrival is delivered online rather than over the air. We accordingly urge the Commission to act on our petition for reconsideration and require that video clips be captioned, in accordance with Congressional intent, and to undertake any other measures that may be necessary to ensure that viewers who are deaf or hard of hearing can access vital emergency information on equal terms.

Please don’t hesitate to contact me if you have any questions.

Respectfully submitted,

/s/

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⁸ Statement, 2000 WL 374524, at *1 (Apr. 13, 2000).

⁹ *Id.*

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